IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.4706 of 1999

Between:

1. Sagar Cements Limited, 8-2-472/B/2, Road No.1, Banjara Hills, Hyderabad, rep.by its Deputy General Manager (P&A) Sri K.Raja Reddy.

2. Amareswari Cements Limited, 8-2-472/B/2, Road No.1, Banjara Hills, Hyderabad, rep.by its General Manager (Works), Sri B.S.Prabhakara Rao.

3. Kakatiya Cement, Sugar and Industries Limited Gurukrupa, 1-10-14/1, Ashok Nagar, Hyderabad, rep.by its Executive Director Sri J.S.R.Prasad.

4. Coromandel Cements Limited, 5-A Kautilya, Amruta Estates, Besides Medinova, Somajiguda, Hyderabad, rep.by its Finance Manager-cum-Company Secretary, Sri P.Prabhakara Rao.

5. Grey Gold Cements Limited, 6-3-655/6/B, Civil Supplies Bhavan Lane, Somajiguda, Hyderabad, rep.by its Managing Director Sri S.Arvind Reddy.

6. Nagarjuna Construction Company Limited, Nagarjuna Hills, Panjagutta, Hyderabad, rep.by its Project Executive Sri A.S.Rama Raju.

7. NCL Industries Limited, 7th floor, Raghava Ratna Towers, Chirag Ali Lane, Hyderabad, rep.by its Managing Director Sri K.Ravi.

8. Hemadri Cements Limited, 6-3-248/B, Road No.1, Banjara Hills, Hyderabad, rep.by its Managing Director Sri S.N.Kilaru.

9. Deccan Cements Limited, rep.by its Chief Manager (Legal) and Company Secretary Sri R.Gopalakishnan.

...PETITIONERS

AND

1. The Regional Labour Commissioner (Central) A.T.I. Campus, Vidyanagar, Hyderabad.

2. The Assistant Labour Commissioner (Central) A.T.I. Campus, Vidyanagar, Hyderabad.

3. The Labour Enforcement Officer (Central) A.T.I. Campus, Vidyanagar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate writ or direction declaring the action of the respondent in applying the notification issued by the Central Government in S.O.779 (E) dated 09.12.1976 in respect of security guards engaged by the petitioners as illegal and arbitrary.

COUNSEL FOR THE PETITIONER: MR.O.MANOHER REDDY

COUNSEL FOR THE RESPONDENTS: GP FOR LABOUR

The Court made the following:

ORDER:

The petitioners who are nine in number are cement manufacturing companies in the districts of Nalgonda, Krishna and Kurnool. It is their case that the third respondent herein inspected the establishments of the petitioners and issued a notice alleging contravention of Section 10 (1) of the Contract Labour (Regulation and Abolition) Act, 1970 ('the Act' for brevity) and the notification being S.O.No.779(E), dated 09.12.1976 issued by the Government of India. The petitioners submitted explanations *inter alia* contending that the notification issued by the Central Government has no application to them as they are engaging security guards to restrict the movement of the outsiders into the establishments and to regulate the movement of the materials.

This Court, while admitting the Writ Petition, passed interim orders directing the respondents not to restrain the petitioners from engaging the security guards. The Central Government has not filed any counter-affidavit so far.

The only point that needs to be considered is whether the notification, dated

09.12.1976 applies to the petitioners' industries? The notification reads as under.

S.O.779 (E): In exercise of the powers conferred by sub-section(1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), the Central Government after consultation with the Central Advisory Contract Labour Board, hereby prohibits employment of contract labour on and from 1st March 1977 for sweeping, cleaning, dusting and watching of buildings owned or occupied by establishments in respect of which the appropriate Government under the said Act is the Central Government:

Provided that this notification shall not apply to the outside cleaning and other maintenance operations of multi-storeyed buildings where such cleaning or maintenance operations cannot be carried out except with specialized experience.

There is no dispute that the Central Government prohibited contract labour with effect from 01.03.1977 for sweeping, cleaning, dusting and watching of buildings owned or occupied by establishments. However, as per proviso to the notification, such prohibition shall have no application to the outside cleaning and other maintenance operations of multi-storeyed buildings. It is the contention of the petitioners that the job of "Watching of buildings" is altogether different from the job of guarding the properties of the owners. It is no doubt true that a trained security guard is altogether different from a non-skilled watchman of the buildings. This matter has to be examined by the third respondent, especially when a notice is issued to the petitioners and they have submitted explanations. In this Writ Petition, no finding can be given at this stage. Therefore, the Writ Petition is disposed of directing the respondents to consider the representations made by the petitioners pursuant to the notice issued by the third respondent and pass appropriate orders. If the petitioners are aggrieved by the orders passed by the third respondent, it shall be open for the petitioners to avail alternative remedy before the Labour Court or before any other Court of law. In this Writ Petition, no relief can be granted.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

29th July 2004

RRB

Copies To:

1. The Regional Labour Commissioner (Central) A.T.I. Campus, Vidyanagar, Hyderabad.
2. The Assistant Labour Commissioner (Central) A.T.I. Campus, Vidyanagar, Hyderabad.
3. The Labour Enforcement Officer (Central) A.T.I. Campus, Vidyanagar, Hyderabad.
4. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.